

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Select Financial, LLC,

Plaintiff,

v.

Penland Financial Services, Inc.; Charles
Penland; Penco, Inc.;

Defendants.

C/A No. 7:05-2647-GRA

ORDER
(Written Opinion)

On March 29, 2007, the parties came before the Court for a hearing on defendant's motion to dismiss, plaintiff's motion to compel and plaintiff's motion for sanctions. Defendant Charles Penland was not present but was represented by his guardian *ad litem*, Jean Bradley.


Defendant Charles Penland argues that the claims brought against him in his personal capacity should be dismissed because he is shielded from liability by the corporate veil. At this stage in the proceedings, however, the Court cannot say as a matter of law that Mr. Penland is protected by the corporate veil simply because he acted through two corporations. Plaintiff may ascertain facts through discovery that would enable the Court to pierce the corporate veil and hold Mr. Penland liable personally.

Defendant Penland failed to respond to a discovery request or participate in a scheduled deposition. Defendant acted under the erroneous belief that he was still

represented by counsel and insisted that counsel be present for his deposition. He also claimed that he lacked access to his documents in prison. The Court is confident that Mr. Penland's guardian *ad litem* will be able to facilitate all future discovery requests. Mr. Penland is directed to answer the discovery request and participate in the deposition. Plaintiff may renew his motion for sanctions if Mr. Penland refuses to cooperate any further.

IT IS THEREFORE ORDERED that defendant's motion to dismiss be DENIED, plaintiff's motion to compel be GRANTED, and plaintiff's motion for sanctions be DENIED.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "G. Ross Anderson, Jr.", is written over a horizontal line.

G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

March 30, 2007

Anderson, South Carolina